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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,676	08/02/2001	Dawn Marie Schwarzkopf	501295	6754

23626 7590 04/30/2003

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EXAMINER

SUHOL, DMITRY

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 04/30/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/920,676

Applicant(s)

SCHWARZKOPF, DAWN MARIE

Examiner

Dmitry Suhol

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10,12-17,19 and 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-10,12-17,19 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☒ Interview Summary (PTO-413) Paper No(s) 13.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13, 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Evans. Evans discloses all the elements of the claims including, a computer keyboard having a plurality of individual keys as required by claims 15 (fig. 2), a portion of individual keys including a glyph of an upper-case letter and a glyph of an associated lower-case letter as required by claims 15 (fig. 2), a glyph of an upper case letter and a lower-case letter are positioned in a diagonal relationship to one another as required by claim 13 (fig. 2), a glyph of an upper-case letter positioned on keys and a glyph of a lower-case letter positioned on a layer that is overlaid on keys as required by claims 15 (fig. 2) where the upper-case letters are located under the layer that is overlaid on the keys as well as on a top surface of the layer.

Claims 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Education Technology News, v11, n14, July 7, 1994 (here from referred to as ETN).

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ETN discloses providing a computer-related teaching apparatus containing all the elements of the claims including, a computer keyboard with a plurality of keys with stickers containing upper and lower case letters.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10, 15, 17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nopper in view of Evans. Nopper teaches a keyboard cover containing some of the elements of the claims including, a transparent upper surface and a keyboard overlay adapted to cover a whole of a keyboard as required by claims as required by claims 1 and 15 (col. 3, lines 26-29 and abs. lines 4-9 respectively), a plurality of key accommodating structures as required by claims 1 and 15 (fig.2).

Although Nopper discloses some of the elements of the claims, as stated above, the reference fails to teach, a portion of the upper surface of a key accommodating structures having a lower-case letter positioned thereon as required by claims 1 and 15, a lower-case letter positioned in a fourth quadrant as required by claim 2, a lower-case letter positioned in a second quadrant as required by claim 3, a lower-case letter positioned in a third quadrant as required by claim 4, lower-case letters are rendered in a first font style as required by claim 5, a first font style being D'Nealian as required by

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claim 6, a first font style being Zaner Bloser as required by claim 7, a lower case letter being positioned on an under surface of a transparent upper surface of an individual key-accommodating structure as required by claim 8, a transparent protective layer and a lower-case letter positioned between a protective layer and an upper surface as required by claim 9. However, Evans discloses keyboard cover which teaches providing a keyboard overlay having a plurality of individual key-accommodating structures (fig.2) with a portion of the upper surface of a key accommodating structures having a lower-case letter positioned thereon (fig. 2), and lower-case letters are rendered in a first font style (fig. 2). Evans further teaches providing a keyboard cover comprised of a plurality of layers (considered to be a protective layer and an upper layer) with each layer marked with indicia different to indicia symbol on the underlying keyboard (page 3, lines 16-22) where it is considered "different indicia" encompasses a lower case symbol. Therefore it would have been obvious to one having ordinary skill in the art, at the time of the claimed invention, in view of the teachings of Evans, to manufacture the device of Nopper from a plurality of layers and lower-case indicia located between a protective layer and upper layer with a portion of the upper surface of a key accommodating structures having a lower-case letter positioned thereon for the purpose of providing a durable keyboard cover aiding young children in learning keyboard skills. It would have been further obvious to position a lower-case letter, printed in a D'Nealian or Zaner Bloser font style, in a second, third or fourth quadrant for the purpose of interest to the consumer. The positioning and the font style of the lower-case letters are an obvious

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choice of design in as much as the applicant discloses no advantage or critical need for them (see applicants specification page 14, paragraph 0051, lines 12-14).

Claims 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans. Although Evans discloses most of the elements of the claims, the reference fails to teach a glyph of an upper-case letter and a glyph of a lower-case letter are positioned in a horizontal relationship to one another in a plane of keys as required by claim 12 and a glyph of an upper-case letter and a glyph of a lower-case letter are positioned in a vertical relationship to one another in a plane of keys as required by claim 14. However, it would have been obvious to manufacture the device of Evans with a glyph structure as stated above for the purpose of interest to the consumer. The positioning of the lower-case letters is an obvious choice of design in as much as the applicant discloses no advantage or critical need for them (page 11, paragraph 0044, lines 22-24).

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Evans in view of Nichol et al '825. Although Evans discloses most of the elements of the claims, as stated above, the reference fails to teach a layer being adhesively attached on individual keys. However, Nichol discloses a keyboard cover, like that of Evans, which teaches adhesive attachment on individual keys (col. 7, lines 39-42 and line 46). Therefore it would have been obvious, in view of Nichol, to adhesively attach the cover of Evans on individual keys for the purpose of security.

Claims 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over RussianStickers.com known and used by the public since 1995 (here from referred to as RS) or jewishsoftware.com (copywrite date of 2000) (here from referred to as JS) in view of Education Technology News, v11, n14, July 7, 1994 (here from referred to as ETN). Both RS and JS teach transparent stickers with differing indicia that are applied to keyboards in a non-interfering location to indicia on the keys of a keyboard (page 1 of each reference).

However both references fail to teach indicia being a lower-case letter corresponding to an upper-case letter as required by claims 19 and 21. ETN discloses providing a computer-related teaching apparatus comprising a computer keyboard with a plurality of keys with stickers containing upper and lower case letters (see abstract). Therefore it would have been obvious, in view of ETN, to provide the stickers of either RS or JS with a lower case letter for the purpose of being able to teach children keyboarding skills.

### ***Response to Arguments***

Applicant's arguments filed 27 November 2002 have been fully considered but they are not persuasive.

Regarding the rejections of claim 15 based upon the Evans reference under 35 USC 102(b) applicants' argue that Evans teaches an opaque keyboard cover where no indicia from keys of a keyboard are visible there through which is contrary to the



requirements of amended claim 15. In response the examiner points out that amended claim 15 does not have any requirement for indicia of the keyboard to be visible through the overlay.

Regarding the rejections of claim 15 based upon the ETN reference under 35 USC 102(b) applicants' use a similar argument as for the Evans reference. In response the examiner once again points out that that amended claim 15 does not have any requirement for indicia of the keyboard to be visible through the overlay. Furthermore, the examiner also points out that the phrase (from ETN reference) of "Conversion Stickers feature both upper and lower case letters" is interpreted to mean that some of the stickers will have upper case letters and some of the stickers will have lower case letters.

Regarding the rejections of claims 1-10, 15, 17 and 19 based upon the combination of Nopper in view of Evans reference, the applicants' argue that since Evans teaches an opaque cover that a combination of Nopper and Evans would not be proper. The examiner disagrees and points out that Nopper is used by the examiner to provide a teaching of a transparent cover while Evans merely provides a teaching of placing lower-case indicia corresponding to upper-case indicia upon a keyboard cover (in a non-interfering location) as shown in figure 2, and clearly stated in the above and previous office action. Applicants' s further argue that Evans teaches placing lower-case letter indicia in a large centered manner on each key. The examiner disagrees and points out that the rejection is based upon an embodiment of the Evans invention shown in figure 2, where it is clearly shown that lower-case indicia is placed in a diagonal (non-

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interfering) location respective upper-case indicia. Applicants' further argue (regarding claims 2-9) that the placement of indicia and different font styles employed are not a design choice but serve a clear purpose for mimicking fonts used by various school systems. The examiner points out the applicants language specifically, "...other fonts may be utilized by other schools, and preferably these same fonts are used in an embodiment of the present invention..." encompasses any font known and used, not offering any advantage of one over the other (i.e. just because a font is know or used by a school does not mean that it offers any specific advantage). Furthermore, as stated in the office action above and in the previous office action, it would have been obvious to use and font style as they are all well known for the purpose of interest to the consumer (i.e. one person might like one font and a different person will like another font).

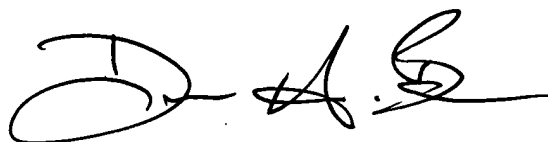
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 703-305-0085. The examiner can normally be reached on Mon - Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 703-308-1745. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

A handwritten signature in black ink, appearing to read 'D. H. Banks', with a stylized flourish at the end.

ds  
April 4, 2003

DERRIS H. BANKS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700